



Stephen L. Madkour
County Counsel

August 17, 2023

BCC Agenda Item: _____

Board of County Commissioners
Clackamas County

Scott C. Ciecko
Amanda Keller
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Assistants

Members of the Board:

Approval of Annexation to Sunrise Water Authority

Previous Board Action/Review	None		
Performance Clackamas	Build Public Trust Through Good Government		
Counsel Review	Initials: JM	Procurement Review	No
Contact Person	Jeffrey D. Munns	Contact Phone	503-742-5984

BACKGROUND

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Sunrise Water Authority is such a district.

Proposal No. 2023-005 is a proposed annexation to Sunrise Water Authority ("District").

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting a notice near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Notice posted online (<https://www.clackamas.us/meetings/bcc/business>); 3) Published notice twice in the Clackamas County Review; 4) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Happy Valley has approved this petition.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is in the northern portion of Happy Valley and consists of two tax lots that are improved with two existing single-family homes. The territory contains 13 acres, two occupied residences, and is assessed at \$2,099,850.00.

REASON FOR ANNEXATION

The property owner desires water service to serve two existing single family residences and the planned development of 44 single-family homes. The property has been annexed to the City of Happy Valley.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Sunrise Water Authority and the City of Happy Valley do have an agreement calling for the District to be the provider sewage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County, Clackamas County Service District # 1, and Tri-City County Service District to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property will receive sewerage treatment and transmission from WES under such agreement. Local sewerage collection will continue to be provided by the City.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served (major transmission and treatment) by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the

Tri-City County Service District with Clackamas County Service District No. 1 and the Surface Water Management Agency of Clackamas County, as amended from time to time.

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. 2023-005, annexation to the Sunrise Water Authority.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving a
Boundary Change Proposal
No. 2023-005

} Order No. _____

This matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Sunrise Water Authority;

It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

It further appearing that this matter came before the Board for public hearing on August 17, 2023 and that a decision of approval was made on August 17, 2023;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. 2023-005 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Sunrise Water Authority as of August 17, 2023.

ADOPTED this 17th day of August, 2023.

BOARD OF COUNTY COMMISSIONERS

Tootie Smith, Chair

Anthony Mayernik, Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. Proposal No. 2023-005 is a proposed annexation to the Sunrise Water Authority (“District”).
2. If the Board approves the proposal the boundary change will become effective immediately.
3. The territory to be annexed is two tax lots that are improved with two existing single-family homes. The territory contains 13 acres, two occupied residences and the planned development of 44 single-family homes, and is valued at \$2,099,850.00.
4. The property owner desires water service from the District following annexation into the City of Happy Valley. The property owners confirm they have checked with the County and that connection is allowed to the property.
5. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted in Finding 2

¹ A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in the Finding 7 below. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements,

and found that the subject property is eligible for annexation to the District.

6. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

7. The PUBLIC FACILITIES AND SERVICES Element of the County Comprehensive Plan contains the following Goal:

Sanitary Sewage Treatment Policies

* * *

- 7.A.8 Prohibit new on-site sewage disposal systems within Urban Growth Boundaries except for:

- 7.A.8.1 A lot of record outside of a sewage service district, legally recorded prior to January 31, 1980; or

- 7.A.8.2 Parcels of ten acres or larger in Future Urban areas inside the Metro Urban Growth Boundary (UGB); or

- 7.A.8.3 Outside the Metro UGB on lots that conform to the minimum lot size of the zone; or

- 7.A.8.4 Parcels inside a sewage service district having unique topographic or other natural features that make sewer extension impractical as determined on a case by case basis by the sewer service provider.

8. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the

long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.

9. The District has a sewer line available and located on the property which can serve the property.
10. The property is already in Clackamas County Service District #1 for sanitary sewer service.
11. The area receives police service from the County Sheriff.
12. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the District.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 5 & 8 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The area is served by the District and no other entity has the capability of serving this site.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plan (Clackamas County's Comprehensive Plan) and concludes this proposal complies with it. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District has service available to the area to be annexed as noted in Finding No. 9. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not

duplicative.

- a. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.

EXHIBIT "B"
Revised 7-14-2023

Legal Description for Annexation

Those parcels of land conveyed in Clackamas County Deed Records 2018-054246 and 2018-054247 being in the SW ¼ of Section 30, Township 1 South, Range 3 East, of the Willamette Meridian and being within the boundaries of the City of Happy Valley, County of Clackamas, Oregon, and further described as follows:

Beginning at a 5/8 inch iron rod with a red plastic cap marked "Centerline Concept" found at the southwest corner of "Maple Hill Heights" (Plat 1815), Clackamas County Plat Records; thence along said south line of "Maple Hill Heights", and continuing along the south line of that tract of land described in Deeds Recorded as Document No. 2002-076442 and Document No. 2014-044603, Clackamas County Deed Records, South 88°46'12" East, 1152.64 feet to the west right of way line of SE 172nd Avenue, being 30 feet west of the centerline thereof when measured at right angles; thence along the arc of a 316.48 foot radius non-tangent curve to the left (radial line bears South 78°01'18" West), through a central angle of 17°07'21", an arc length of 94.58 feet (chord of which bears South 20°32'22" East 94.23 feet); thence along said west right of way line South 29°06'03" East, 247.03 feet; thence along the arc of a 256.48 foot radius curve to the right, through a central angle of 30°30'00", an arc length of 136.53 feet (chord of which bears South 13°51'03" East, 134.92 feet); thence along said west right of way, South 01°23'57" West 9.58 feet, and being the southeast corner of that tract of land described in Deed recorded as Document No. 2018-054246; thence along the north line of that tract of land described in Deed Recorded as Document No. 2012-071156, Clackamas County Deed Records, and continuing along the north line of those tracts of land described in Deeds recorded as Documents No. 2016-088527, Parcel 1 of 93-57929, and 2018-025509, Clackamas County Deed Records, North 88°43'29" West, 1346.71 feet, to the southwest corner thereof; thence along the East line of the Northwest one-quarter of the Southwest one-quarter of Section 30, North 01°08'17" East, 439.51 feet to the Point of Beginning.

ANNEXATION MAP
REVISED 7-14-2023

Exhibit C

SN2019-230

RECORD OF SURVEY

A TRACT OF LAND LOCATED IN THE
S.W. 1/4 SECTION 30, T.1S., R.3E., W.M.
CLACKAMAS COUNTY, OREGON
OCTOBER 24, 2019 SCALE 1"=100'

SURVEY PERFORMED FOR:
KENT ZIEGLER

NARRATIVE:

THE PURPOSE OF THIS SURVEY IS TO MONUMENT THE PERIMETER BOUNDARIES OF THOSE TRACTS OF LAND CONVEYED BY DEED RECORDED AS DOCUMENTS NO. 2018-054246 AND 2018-054247, CLACKAMAS COUNTY DEED RECORDS, FOR A FUTURE AS YET UNNAMED SUBDIVISION.

FOR MY BASIS OF BEARINGS, AND THE WEST LINE OF THE SUBJECT TRACT, BEING THE WEST LINE OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 30, TOWNSHIP 1 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, I HELD NORTH 01°08'17" EAST BETWEEN FOUND MONUMENTS "A", "B", "C", AND "D", PER SURVEYS NO. 2991, 3726, 24775, AND 2015-110 (BEARING SOURCE), CLACKAMAS COUNTY SURVEY RECORDS.

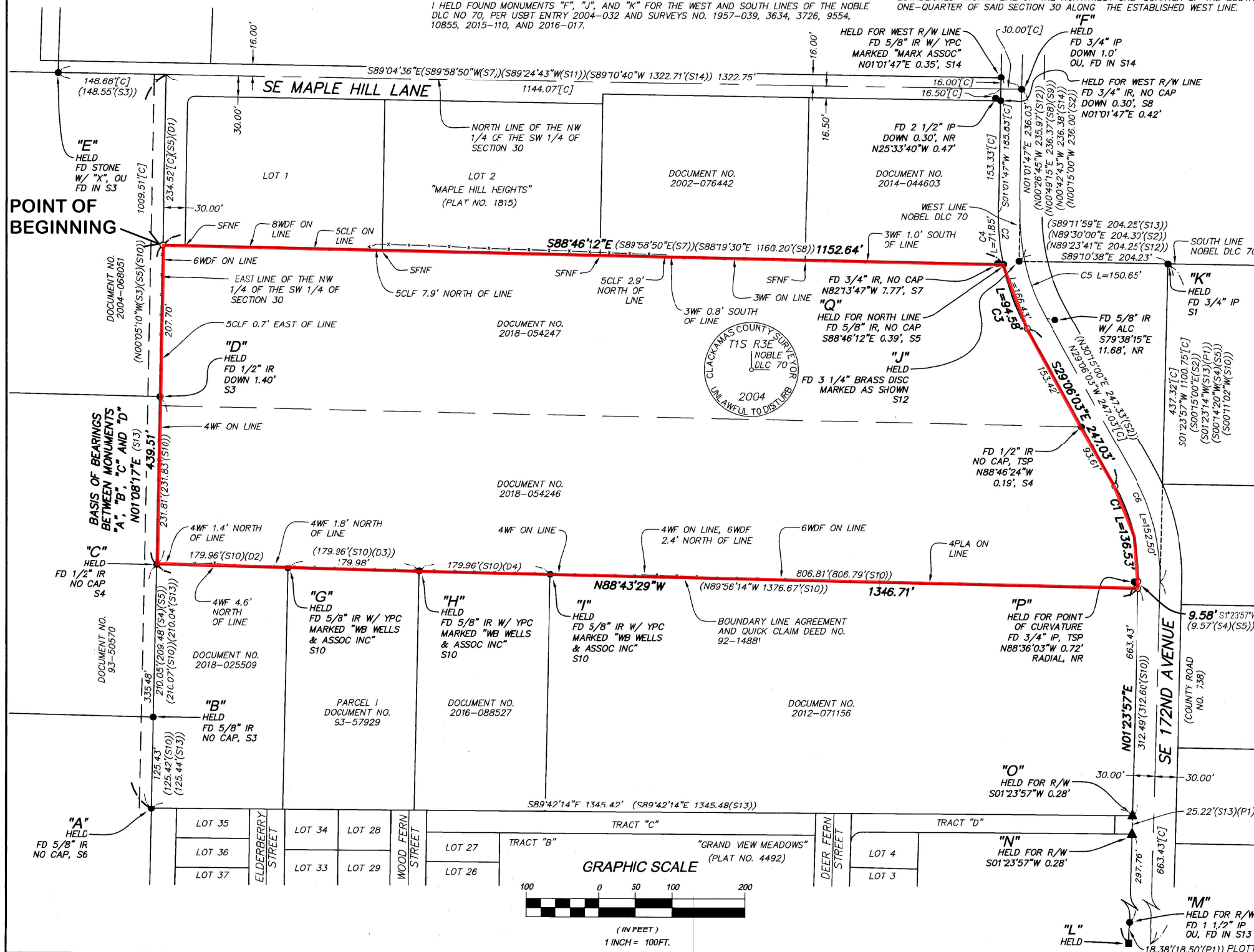
I HELD FOUND MONUMENTS "E" AND "F" FOR THE NORTH LINE OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 30, PER SURVEYS NO. 2991, 3726, 8771, 2016-017, AND USBT ENTRY 2003-037, CLACKAMAS COUNTY SURVEY RECORDS.

I HELD FOUND MONUMENTS "G", "H", AND "I" FOR THE MOST SOUTHERLY LINE OF THE SUBJECT TRACTS, PER SAID SURVEY NO. 24775, MEMORIALIZED BY THE BOUNDARY LINE AGREEMENT AND QUICK CLAIM NOTED IN DOCUMENT NO. 92-14881, CLACKAMAS COUNTY DEED RECORDS.

I HELD FOUND MONUMENTS "J", "K", AND "L" FOR THE WEST AND SOUTH LINES OF THE NOBLE DLC NO 70, PER USBT ENTRY 2004-032 AND SURVEYS NO. 1957-039, 3634, 3726, 9554, 10855, 2015-110, AND 2016-017.

I HELD FOUND MONUMENT "K" AND DISTANCE OF 30.00 FEET EAST OF FOUND MONUMENTS "L", "M", "N", AND "O" TO ESTABLISH THE TANGENT SEGMENT OF THE CENTERLINE OF SE 172ND AVENUE, AKA COUNTY ROAD NO. 738 (A 60.00 FOOT WIDE RIGHT OF WAY) RUNNING SOUTHERLY OF THE SUBJECT TRACT, PER SURVEYS NO. 3634, 3726, 8771, 24775, 2015-110, AND 1957-039 (A SURVEY TO REALIGN SAID RIGHT OF WAY), CLACKAMAS COUNTY SURVEY RECORDS, AND THE PLAT OF "GRAND VIEW MEADOWS", PLAT NO. 4492, CLACKAMAS COUNTY PLAT RECORDS. I THEN HELD FOUND MONUMENT "P" ON THE RADIAL LINE OF THE POINT OF CURVATURE. ALTHOUGH SAID SURVEYS NO. 3634 AND 3726 DO NOT SHOW A MONUMENT BEING SET AT THIS POSITION, IT CORRELATES WELL WITH RECORD DISTANCE OF 9.57 FEET TO THE ESTABLISHED SOUTH LINE OF THE SUBJECT TRACT, PER SAID SURVEYS. I THEN HELD RECORD CURVE DATA PER SAID REALIGNMENT SURVEY NO. 1957-039 ALONG WITH COURT ORDER NO. 5367 AND MONUMENTS "J" AND "F" TO DEFINE THE TANGENT SECTION RUNNING NORTH OF THE SUBJECT TRACTS. I THEN ESTABLISHED THE EAST LINE OF THE SUBJECT TRACTS 30.00 FEET WESTERLY OF AND PARALLEL WITH THE ESTABLISHED CENTERLINE.

FOR THE NORTH LINE OF THE SUBJECT TRACT, I HELD FOUND MONUMENT "O" PER SAID SURVEYS NO. 8771 AND 9554, AND RECORD DEED DISTANCE SOUTH FROM THE ESTABLISHED NORTH LINE OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 30 ALONG THE ESTABLISHED WEST LINE.



CLACKAMAS COUNTY SURVEYOR
RECEIVED: 6-5-19
ACCEPTED FOR FILING: 10-29-19
SURVEY NUMBER: SN2019-230

- LEGEND:**
- SET 5/8" x 30" IRON ROD W/ RED PLASTIC CAP MARKED "CENTERLINE CONCEPTS" ON OCTOBER 24, 2019
 - FOUND MONUMENT AS NOTED
 - FOUND 1.17" COPPER DISC IN MONUMENT BOX MARKED "AKS ENGR" FROM P1
 - ▲ FOUND 5/8" IRON ROD W/ YELLOW PLASTIC CAP MARKED "AKS ENGR" FROM P1
- () = RECORD DISTANCES & BEARINGS
SFNF = SEARCHED FOR NOT FOUND
[C] = CALCULATED DISTANCE
IR = IRON ROD IP = IRON PIPE
FD = FOUND W/ = WITH
YPC = YELLOW PLASTIC CAP ALC = 2" ALUMINUM CAP
TSP = BENT, TIED SPIN POINT R/W = RIGHT OF WAY
OU = ORIGIN UNKNOWN NR = NO RECORD
DOCUMENT NO. = DEED DOCUMENT NUMBER, CLACKAMAS COUNTY DEED RECORDS
SN = SURVEY NUMBER, CLACKAMAS COUNTY SURVEYOR'S OFFICE
S1 = SN 1-117 S2 = SN 1957-039
S3 = SN 2991 S4 = SN 3634
S5 = SN 3726 S6 = SN 4170
S7 = SN 8771 S8 = SN 9554
S9 = SN 10855 S10 = SN 24775
S11 = U.S.B.T. ENTRY 2003-037
S12 = U.S.B.T. ENTRY 2004-082
S13 = SN 2015-110 S14 = SN 2016-017
D1 = "GRAND VIEW MEADOWS" (PLAT NO. 4492)
D2 = DOCUMENT NO. 2018-054247
D3 = DOCUMENT NO. 2018-025509
D4 = DOCUMENT NO. 2016-088527
3WF = 3' WIRE FENCE 4WF = 4' WIRE FENCE
6WDF = 6' WOOD FENCE 8WDF = 8' WOOD FENCE
5CLF = 5' CHANLINK FENCE 4PLA = 4' PLASTIC FENCE

CURVE DATA TABLE					
CURVE#	LENGTH	RADIUS	DELTA	CH. BEARING	CH. LEN.
C1	136.53'	256.48'	30°30'00"	N13°51'03"W	134.92'
C2	166.43'	316.48'	30°07'50"	S14°02'08"E	164.52'
C3	94.58'	316.48'	17°07'21"	S20°32'22"E	64.23'
C4	71.85'	316.48'	13°00'29"	S5°28'27"E	71.70'
C5	150.65'	286.48'	30°07'50"	S14°02'08"E	148.92'
C6	152.50'	286.48'	30°30'00"	N13°51'03"W	150.71'

REFERENCE CURVE DATA TABLE (S2)					
CURVE#	LENGTH	RADIUS	DELTA	CH. BEARING	CH. LEN.
C5	150.00'	286.48'	30°00'00"	N/A	N/A
C6	152.50'	286.48'	30°30'00"	N/A	N/A

SIGNED ON: 250610
REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON JULY 13, 2004
TOBY G. BOLDEN 60377LS
RENEWS: DECEMBER 31, 2019

CENTERLINE CONCEPTS
LAND SURVEYING, INC.
19376 MOLALLA AVE., SUITE 120
OREGON CITY, OREGON 97045
PHONE 503.650.0188 FAX 503.650.0189

